APPEAL NO. 022638
FILED NOVEMBER 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on September 23, 2002. The appellant (claimant) appeals the hearing officer's determination that the claimant did not sustain a compensable injury in the form of an occupational disease with a date of injury of _____. The respondent (carrier) responds, urging affirmance. The hearing officer's determinations that the carrier is not relieved of liability because the claimant timely reported her alleged injury to her employer, and that the date of the alleged injury is _____, have not been appealed and have become final.

DECISION

Affirmed.

The hearing officer erred in her findings of fact related to the claimant being involved in a motor vehicle accident on August 23, 2000. The undisputed evidence was that the motor vehicle accident referred to occurred in November 1999. Although the claimant is correct that the hearing officer's determination in this respect is wrong, this Finding of Fact does not constitute reversible error as the hearing officer's decision on the disputed issue is supported by other evidence.

The real issue at hand is whether the hearing officer erred in her determination that the claimant did not prove that she had an occupational disease as a result of her employment. The claimant testified that she worked part time for the employer for about 90 days; she worked an average of about 20-28 hours per week; her job consisted of constant use of her hands; she was involved in data entry more than 50% of her workday; and that she first started having trouble with her hands in _____ when she told her employer. The scope and nature of the claimant's job duties is disputed. The hearing officer, in her Findings of Fact No. 4 states, "The claimant's job duties were not repetitive and traumatic" and concluded that the claimant had not sustained an occupational disease (repetitive trauma) injury. Whether the claimant's job duties were repetitive and traumatic are factual determinations for the hearing officer. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We will uphold the hearing officer's judgment if it can be sustained on any

reasonable basis supported by the evidence. Daylin, Inc. v. Juarez, 766 S.W.2d 347 (Tex. App.-El Paso 1989, writ denied).

Accordingly, the decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY OF KANSAS** and the name and address of its registered agent for service of process is

RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Robert W. Potts
Appeals Judge